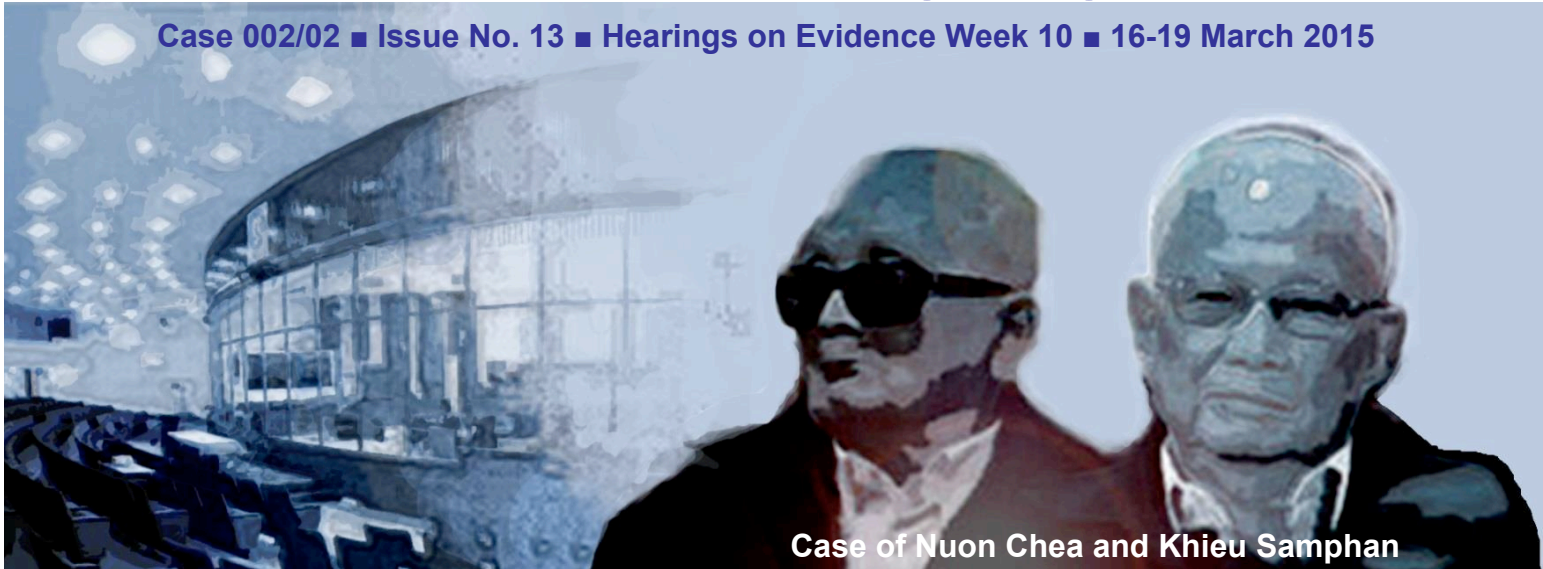


KRT TRIAL MONITOR

Case 002/02 ■ Issue No. 13 ■ Hearings on Evidence Week 10 ■ 16-19 March 2015



Case of Nuon Chea and Khieu Samphan

Asian International Justice Initiative (AIJI), a project of East-West Center and the WSD Handa Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center)

Once 'Cultural Revolution' was initiated, the intelligent or the educated who did not join the ranks or line of the Revolution would be 'smashed', and whoever opposed 'Angkar' would also be 'smashed'.

- Witness Riel Son

I. OVERVIEW

The Trial Chamber effectively completed hearing the testimonies of two witnesses this week, but it was forced to adjourn a half-day early due to the health issues of a new witness set to testify on 19 March. Throughout the week, there were no substantial legal or procedural issues, beyond a few objections seeking evidentiary references to avoid misstating evidence, or the Trial Chamber's requests to avoid repetitious questioning. The first witness heard this week, Mr. Nut Nouv, was chief of Srae Ronoung Commune in 1978. His testimony covered his experiences as a cadre in three different Tram Kak District communes and his knowledge of DK administrative structures, as well as the living conditions in the cooperatives. The second witness, Mr. Riel Son, was deputy chief of Tram Kak District Hospital from 1976 to 1979. He testified on his experiences and roles at the hospital, his attendance of meetings where the targeting of Lon Nol officials, Khmer Krom, and ethnic Vietnamese was discussed, and his interactions with Ta Mok and the Accused, Khieu Samphan. This report also summarizes the Trial Chamber's continued management of Case 002/02, as the Court sought to strike a balance between the OCP's recent evidentiary disclosures from Cases 003 and 004 and the Defense Teams' requests for new scheduling to enable review of the evidence.

II. SUMMARY OF WITNESS TESTIMONY

This week, the Chamber proceeded efficiently through the testimony of two witnesses who were formerly Khmer Rouge cadres in Tram Kak District. The first witness, Mr. Nut Nouv, completed the testimony he had begun the previous week on his experiences working in Leay Bour and Nheang Nhang Communes and as chief of Srae Ronoung Commune. The second witness, Mr. Riel Son, then took the stand and testified for two and half days of trial sessions. Speaking from his firsthand experience as deputy chief of Tram Kak District hospital, he described his experiences living in the District and his observations of DK's administrative structure.

A. Summary of Testimony by Witness Nut Nouv

On Monday this week, the Trial Chamber concluded examination of Nut Nouv with questions about his experiences and position in the three Tram Kak District communes where he worked during the DK era. The questioning also covered the Khmer Rouge categorization of people within the cooperatives, his work concerning economics and the food supply, and his knowledge of policies of arrest and execution in Tram Kak District.¹

1. Testimony on Experiences, Duties, and Relations in Tram Kak District

Mr. Nut Nouv testified that, in 1974, he worked in the Nheang Nhang Commune office, dealing with economics and supplying food for different units. Later, in 1976, he was transferred to the Leay Bour Commune committee to oversee cultural matters. The Witness confirmed that he was categorized as a 'candidate', or the second tier of 'base' people, due to familial ties to the Lon Nol regime, but he explained that 'candidate' members could have leading positions as long as they strictly followed the political line of CPK and adequately demonstrated that they were "loyal." To illustrate the point, the Witness explained that he became chief of Srae Ronoung Commune in 1978, after the previous chief disobeyed orders. The Witness claimed that people liked him because he was "kind" and "gentle" in the way he carried out CPK principles. He also stated that people liked him because he had increased the food supply after discovering a food shortage upon his arrival at Srae Ronoung. Because of this, he testified, no one died of starvation in his commune under his leadership. Defense Counsel Kong Sam Onn presented a previous Civil Party's testimony that called him "cruel."² The Witness responded that people may have feared him for his "loud voice," but he claimed he only encouraged people to work harder, in order to resolve the food shortage. He confirmed that cooperatives were developed to address the unequal access to food in the Liberated Zones before 1975.

The Witness gave testimony about the structure of authority above him. He confirmed he worked with various cadres at the District-level, who he identified in successive order of authority as Ta Kheav, Ta Chim, Ta Kith, and Ta San.³ He identified Ta Chim and Ta San as "rather strict and more specific on the technical issues," but also called them "friendly and outgoing." In response to questions from Khieu Samphan's Defense Counsel, he stated that every cadre had their own "personal working style" when implementing CPK policies. The Witness explained that local autonomy and individual "absolute power" was used in carrying out CPK "principles," especially those related to increasing and nourishing the population. The Witness stated that commune officials could disobey higher orders, as they were "closer to the ground" and knew what worked best for the people. He later claimed that he himself was afraid of upsetting higher officials, and that this fear drove his interest in carrying out orders effectively. Nut Nouv continued to maintain that no arrests were made during his tenure in Srae Ronoung Commune. However, when Defense Counsel cited letters with orders for arrests that were sent from his commune's militia to both commune and security officials, he clarified that arrests may have occurred but that only the Sector or Zone gave such orders. The Witness claimed to have little knowledge regarding the executions and 're-education' that occurred at Kraing Ta Chan Security Center, which he claimed he first learned about in 1979.

2. Witness Demeanor and Credibility

Throughout Nut Nouv's testimony, he provided detailed answers about his relationships with other cadres and their positions. However, the Witness claimed he had little knowledge regarding security orders in his commune or District-wide directives, despite the fact that he admittedly held a ranking position at the Commune-level, and maintained open, productive relationships with other cadres. On one occasion, when asked if treatment of 'base people' and '17 April people' was equal throughout the DK era, the Witness asked to consult his Duty Counsel, a function which the President reminded him only existed for matters that led to self-incrimination. Overall, the inconsistent level of detail Nut Nouv provided on different topics

gave the impression that he was selectively recalling details.

B. Summary of Testimony by Witness Riel Son

Mr. Riel Son was the former deputy chief of Tram Kak District Hospital during the Democratic Kampuchea era.⁴ The principal topics covered in his testimony included his position within the District, the hospital's conditions and staffing, and the circumstances in which he met senior DK leaders. He was also asked about a visit he made to Kraing Ta Chan Security Center, as well as his firsthand observation of the defrocking of Buddhist monks at Wat Ang Roka pagoda.

1. Experiences as Chief of Tram Kak District Hospital

Riel Son recalled that many people, including his uncle, "disappeared" after complaining about food shortages during his cooperative's 1975 establishment in Trapeang Thum Khang Cheung Commune. He testified that his wife and children were sent to work elsewhere, and he was not allowed to meet his wife without his unit chief's permission. The Tram Kak District committee members Ta Kith and Ta Chim subsequently appointed him as deputy chief of the District hospital in 1976. He explained that, although he had no medical training, he was selected for this position because he knew how to give injections to patients. He said that he received a total of two weeks' medical training upon taking this assignment. According to Riel Son, his immediate superior was the hospital chief, who was never medically trained, but was always a Party member. He identified three consecutive female chiefs of the hospital, in successive order, as Neary Met, who he noted was illiterate, Ya, and Neary Neang. Riel Son explained that he made monthly oral reports to the District chief, but he stopped asking for greater food and medical supplies after he was reprimanded for "attacking the cooperative," and, on a different occasion, for being "bourgeois." Based on his interactions with District 105 chiefs through his regular reporting, Riel Son was able to clearly identify the successive order of District chiefs in DK as Ta Kheav; Ta Chim; Yeay Khom; and, lastly, Ta San.⁵ The Witness said that the District chief recruited all staff at the hospital, and he testified that some staff were as young as thirteen years old and consisted largely of illiterate peasant women.

Riel Son also explained that weekly District-level meetings were held to discuss the "code of conduct" for cadres, including the hospital staff. He described instructions to be "humble" and "gentle," but he also explained that he was expected to reprimand or advise those in violation of responsibilities. The Witness stated that, in addition to his oversight of the hospital, he supervised healthcare throughout Tram Kak District's 12 communes, in cooperation with the commune chiefs. He also explained the procedures for admission at hospitals in the District, Sector, and beyond: the District chief had to authorize all admissions to the District hospital, except in cases where individuals were severely ill. These cases could be referred directly from the commune. The procedure was similar for the Sector 13 hospital, and official reference from the Sector was necessary for transfer to hospitals in Phnom Penh. Riel Son stated that, unlike his hospital, the Sector 13 hospital offered better treatment methods and a surgery, but the staff at both levels were untrained in medicine. The Witness disclosed that the number of deaths at the hospital increased significantly in the final two months of the DK regime, and he remarked that hospital staff dug approximately 10 to 20 pits every day to bury the bodies. The Witness indicated that these deaths largely resulted from malnutrition and overwork, which led to illnesses such as dysentery. When Defense Counsel Victor Koppe suggested that malnutrition and fatigue were not causes of dysentery, Riel Son explained that the disease may have resulted from unsanitary water conditions, as workers relieved themselves at canal worksites.

2. Observations and Experiences Outside the District Hospital

Riel Son also provided details on his experiences beyond his observations at the District hospital. He testified that, as a District representative and member of the 'male progressive youth group', he and other representatives of the Southwest Zone attended a meeting near Ang

Roka market, chaired by Ta Chim. Here, decisions were made to "sweep clean" former Lon Nol officials. The Witness explained that discussions focused on policies to target additional groups, including military officials or civil servants of the previous regime, the Khmer Krom, and ethnic Vietnamese. He testified that the District committee had instructed the attendees to identify these "enemies" who were "infiltrating", and to purge the latter two groups, who were viewed as "Yuong" agents or KGB spies. Later, under questioning from Victor Koppe, however, Riel Son clarified that he attended two different meetings led by Ta Chim concerning these matters. He explained that the first, which he attended as a youth group member, took place before the 17 April 1975 evacuation of Phnom Penh. The other occurred in 1976, and the Witness clarified he was invited as a representative from the hospital, due to recent thefts there. Riel Son also discussed his visit to Kraing Ta Chan, where he said he saw a female detainee he knew named Ouch Han, one of three cadres who had allegedly been 'purged' from their positions at the District hospital. He explained that he was sent to the Security Center to spray insecticide to kill mosquitoes, and whilst there, he saw over 100 prisoners shackled in one building, heard prisoners moaning, and also met the prison chief, Ta Ann.

In a separate incident examined by the Parties, Riel Son claimed he witnessed 100 monks defrocked by men in black uniforms at Wat Ang Roka, and he heard that the chief monk was beaten for protesting. The Witness also discussed his interactions with senior DK leaders, including Ta Mok and the Accused, Khieu Samphan. Although he ceased reporting on bad hospital conditions to the District out of fear, Riel Son explained that, after complaining of a lack of supplies to Ta Mok himself, he was sent on multiple occasions to the Vietnamese border to barter for supplies. He explained that Ta Mok and a District-level cadre at Kiri Vong District (District 108), near the border, provided him with gold and pigs to barter for medical supplies, as well as watches for other cadres. Separately, Riel Son declared that, on one occasion in 1967 or 1968, he heard Khieu Samphan went to meet with Ta Mok. He testified that he personally saw Khieu Samphan in Tram Kak District, on the day of the Accused's wedding, when the Witness assisted the wife of Ta Mok, Yeay Khim, to carry a rice cake to an office hidden near a dam construction site. The Witness explained that he saw the Accused at this office from approximately 15 meters away, and Yeay Khim identified him as Khieu Samphan.

3. Witness Demeanor and Credibility

Throughout his testimony, Riel Son seemed to answer assuredly and concisely. The only exception was a series of disjointed and confusing responses to questions on the meetings he attended, however, this may have been a result of unclear or repetitious phrasing of questions. He appeared credible and never conferred with his duty counsel. However, much of his testimony included second-hand information or specific incidents that he used to make generalizations. For example, he stated that all former Lon Nol officials were killed, yet he later clarified he only actually knew his uncle and elder brothers, who had ties to the former regime, had "disappeared." Nonetheless, on multiple occasions, he proactively acknowledged he was providing speculative responses, clarifying, for instance, that he did not really know the fate of the Vietnamese beyond what he had heard or could assume.

III. TRIAL MANAGEMENT

The hospitalization of a reserve witness forced the Trial Chamber to adjourn proceedings early this week, at the lunch break on Thursday the 19th. Nonetheless, the Chamber heard two witnesses in Case 002/02 and addressed pressing scheduling issues in an effective manner this week.

A. Attendance

Nuon Chea waived his right to be present in the courtroom and observed proceedings from the holding cell, while Khieu Samphan was present in the courtroom during all sessions throughout the week.

Judge Attendance: All judges of the Trial Chamber were present throughout the week.

Civil Parties Attendance: Approximately ten Civil Parties observed the proceedings each day this week from inside in the courtroom.

Parties: All the Parties were present in the courtroom throughout this week. On 18 March, Mr. Kevin Saunders, the Court-Appointed Standby Counsel for Khieu Samphan, informed the Chamber of his late arrival in that morning's session.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 16/03/2015	<ul style="list-style-type: none"> ▪ Approximately 250 villagers from Angkanh commune, Trang district, Takeo province ▪ Three foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 250 students and five teachers from Preah Sisowath High School, Phnom Penh ▪ Four foreign observers
Tuesday 17/03/2015	<ul style="list-style-type: none"> ▪ Approximately 25 villagers Sambour commune, Trang district, Takeo province ▪ Five foreign observers 	<ul style="list-style-type: none"> ▪ Approximately 250 Grade 12 students from Preah Yukunthor High School, Phnom Penh
Wednesday 18/03/2015	<ul style="list-style-type: none"> ▪ Approximately 200 students and five teachers from Chea Sim Boeung Keng Kang High School, Phnom Penh ▪ One foreign observer 	<ul style="list-style-type: none"> ▪ Four foreign observers
Thursday 19/03/2015	<ul style="list-style-type: none"> ▪ Eight foreign observers 	<i>No proceedings</i>

B. Time Management

Although the Trial Chamber completed the examinations of Witnesses Nut Nuov and Riel Son on schedule, it was unable to commence with a new witness, 2-TCW-822, due to his health issues. In order to keep the proceedings moving efficiently, the President asked national Civil Party Lawyer Lor Chunthy to immediately proceed with his questions for Witness Nut Nuov without the need for his usually lengthy formal introduction. Regarding to testimony of Witness 2-TCW-822, the Trial Chamber announced the cancellation of his testimony this week due to his hospitalization for hypertension. Instead, the Trial Chamber used the spare time left in the morning of 19 March for all the Parties to discuss the Civil Parties' recent submission to hear a new Civil Party not on the scheduled list.

Before the close of the March 19th morning session, the Trial Chamber announced changes to the Court's schedule, to allow the Parties greater time to review the OCP's ongoing disclosures from Cases 003 and 004. The President announced that Chamber would delay hearing the trial segment on the Trapeang Thma Dam worksite, which a great number of the newly disclosed materials touched on, until after the segment on the Kampong Chhnang airport worksite.⁶ The Trial Chamber also adjusted its upcoming schedule by adjourning the hearings from 6 to 9 April, which, combined with the judicial recess for the Khmer New Year holiday, means the Court will adjourn from 2 to 21 April.

C. Courtroom Etiquette

The week's trial proceedings saw very few notable issues concerning courtroom etiquette as the Parties and Judges generally had positive interactions and treated each other respectfully.

D. Translation and Technical Issues

Several translation issues and technical interruptions disturbed the examinations of Witness Nut Nouv and Riel Son, prompting complaints from the Parties in relation to the accuracy of communications. For example, Victor Koppe repeatedly complained that errors in audio interpretation led to misunderstandings of his questions or of witness responses. He also raised discrepancies between the English and French translations of original Khmer documents. International assistant prosecutor Dale Lysak responded that any discrepancies in documentary translation should be forwarded to the Court Management Section, and the Trial Chamber issued an oral ruling on March 17th to instruct all the Parties to seek clarification from their national counterparts and to notify the Information Technology Unit of any linguistic discrepancies. In addition, the English-language audio channel malfunctioned briefly on the morning of March 17th. On the morning of March 19th, another technical disruption prompted an early adjournment for the morning break so that the Audio Visual Unit could resolve the problem.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 16/03/2015	9:05	10:14 – 10:31	11:36 – 13:32	14:43 – 15:02	16:03	4 hours and 26 minutes
Tuesday 17/03/2015	9:01	10:09 – 10:29	11:33 – 13:29	14:37 – 14:59	16:00	4 hours and 21 minutes
Wednesday 18/03/2015	9:01	10:10 – 10:28	11:24 – 13:30	14:38 – 15:00	16:01	4 hours and 14 minutes
Thursday 19/03/2015	9:06	10:10 – 10:33	–	–	11:28	1 hours and 59 minutes
Average number of hours in session				3 hours and 45 minutes		
Total number of hours this week				15 hours		
Total number of hours, day, weeks at trial				133 hours and 23 minutes		
37 TRIAL DAYS OVER 13 WEEKS						

*This report was authored by Johanna Hamark Kindborg, Huy Sambor, Nget Lonh, Daniel Mattes, Lina Tay, Phoebe Sabin, Penelope Van Tuyl, and Oudom Vong as part of AIJI's KRT Trial Monitoring and Community Outreach Program. AIJI is a collaborative project between the East-West Center, in Honolulu, and the WSD Handa Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center). Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in Southeast Asia.



Unless specified otherwise,

- § the documents cited in this report pertain to *The Case of Nuon Chea and Khieu Samphan* before the ECCC;
- § the quotes are based on the personal notes of the trial monitors during the proceedings;
- § the figures in the *Public Attendance* section of the report are only approximations made by AIJI staff; and
- § photos are courtesy of the ECCC.

Glossary of Terms

Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (Case No. 001/18-07-2007-ECCC)
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan</i> (Case No. 002/19-09-2007-ECCC)
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or “KRT”)
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IR	Internal Rules of the ECCC Rev. 8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
RAK	Royal Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

¹ Mr. NUT Nouv (2-TCW-948) was questioned in the following order: international senior assistant prosecutor

² The testimony cited by the Defense Counsel was that of Civil Party CHOU Koemlân. See CASE 002/02 KRT TRIAL MONITOR, Issue 6, Hearings on Evidence Week 3 (26-29 January 2015), pp. 3-4.

³ Nut Nouv’s testimony that Ta San was District 105 chief undermines that witness’ testimony (appearing as Neang Ouch) before the Chamber last week. See CASE 002/02 KRT TRIAL MONITOR, Issue 12, Hearings on Evidence Week 9 (9-12 March 2015), pp. 1-3.

⁴ Mr. RIEL Son (2-TCW-860) was questioned in the following order: President NIL Nonn; national assistant prosecutor SENG Leang; international assistant prosecutor Dale LYSAK; national Civil Party Lawyer LOR Chunthy; Judge Jean-Marc LAVERGNE; international Co-Lawyer for Nuon Chea, Victor KOPPE; national Co-Lawyer for Khieu Samphan, KONG Sam Onn; international Co-Lawyer for Khieu Samphan, Arthur VERCKEN.

⁵ Riel Son’s testimony that Ta San was District 105 chief undermines that witness’ testimony (appearing as Neang Ouch) before the Chamber last week. See CASE 002/02 KRT TRIAL MONITOR, Issue 12, Hearings on Evidence Week 9 (9-12 March 2015), pp. 1-3.

⁶ Trial Chamber, “Decision on Sequencing of Trial Proceedings in Case 002/02” (12 September 2014), E315.